

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**TIMOTHY WILLIAMS, CLAUDIA MILLAN
AND CLAUDIA MILLAN AS GUARDIAN OF
JAMIE MILLAN a minor child,**

Plaintiff,

vs.

No. 1:08-cv-876-JP/WDS

**CITY OF BELEN, and OFFICERS
ENRIQUE VALDEZ, VICTOR CASTILLO,
SCOTT MCCLOUD AND J.P ABEITA in
their official and individual capacities.**

Defendants.

ORDER

THIS MATTER comes before the Court on Defendants' Motion for Protective Order Limiting the Scope of Depositions (Doc. No. 23). This is a civil rights action arising out of the arrest of Plaintiff Timothy Williams. There was a criminal trial subsequent to the incident in which Plaintiff Timothy Williams was arrested. Since Plaintiffs had the opportunity to question and then cross examine the Defendant officers at the criminal trial, Defendants seek to limit the scope of the depositions of the officers in this civil case. As Plaintiffs correctly point out, the informal questioning of the officers prior to a criminal trial and the cross examination during a criminal trial may not necessarily cover all aspects of the incident in question for purposes of discovery in a civil action. Providing a criminal defense requires different tactics and it may not be advantageous to go into the detail that might be appropriate in the civil action. Both Plaintiffs are entitled to depose the Defendant officers without any limitation imposed arising out of Plaintiff Timothy Millan's access during the criminal proceeding. Accordingly, the motion is not well taken.

IT IS THEREFORE ORDERED that Defendants' Motion for Protective Order Limiting the Scope of Depositions (Doc. No. 23) is denied.

A handwritten signature in black ink, appearing to read 'W.D. Schneider', is written above a horizontal line.

W. DANIEL SCHNEIDER
United States Magistrate Judge